

*United States District Court***FILED**

NORTHERN

DISTRICT OF

CALIFORNIA

JUN 22 2007

UNITED STATES OF AMERICA
V.

DANIEL RIVERA EULOGIO

Venue: SAN FRANCISCO

CRIMINAL COMPLAINT**BZ**

(Name and Address of Defendant)

ORIGINAL

CASE NUMBER: 3:07-mi-70364

I, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about June 18, 2007 in San Francisco, in the Northern District of California, the defendant, an alien, having been previously excluded, deported, and removed from the United States to Mexico, and having subsequently voluntarily returned to and remained in the United States, was found in the Northern District of California, the Attorney General of the United States and the Secretary for Homeland Security not having expressly consented to a re-application by the defendant for admission into the United States, in violation of Title 8, United States Code, Section 1326.

I further state that I am an Immigration and Customs Enforcement Officer and that this complaint is based on the following facts:

See attached Affidavit in Support of Criminal Complaint

Maximum Penalties:

Title 8 USC Section 1326:

20 years of imprisonment; \$250,000 fine; 3 years supervised release; and \$100 special assessment fee

APPROVED AS TO FORM:

Wendy Thomas, SAUSA

Continued on the attached sheet and made a part hereof: Yes NoWarrant of Arrest Requested: Yes NoBail Amount: N/A

Signature of Complainant, Cesar Lopez

Sworn to before me and subscribed in my presence,

June 22, 2007

Date

at San Francisco, California

City and State

Bernard Zimmerman**United States Magistrate Judge**

Name & Title of Judicial Officer

Signature of Judicial Officer

UNITED STATES DISTRICT COURT)
NORTHERN DISTRICT OF CALIFORNIA) ss. AFFIDAVIT
)

AFFIDAVIT IN SUPPORT OF A CRIMINAL
COMPLAINT CHARGING
DANIEL RIVERA EULOGIO
WITH VIOLATING 8 U.S.C. § 1326,
ALIEN FOUND IN THE UNITED STATES AFTER DEPORTATION

I, Cesar Lopez, do swear and affirm as follows,

Purpose

1. This affidavit establishes probable cause to arrest Daniel RIVERA EULOGIO for violating 8 U.S.C. § 1326, Alien Found in the United States After Deportation, when the defendant, an alien, having been previously excluded, deported, and removed from the United States to Mexico, and having subsequently voluntarily returned to and remained in the United States, was found in the Northern District of California, the Attorney General of the United States and the Secretary for Homeland Security not having expressly consented to a re-application by the defendant for admission into the United States, in violation of Title 8, United States Code, Section 1326.

Relevant Statute

2. Title 8 U.S.C. Section 1326 states, in relevant part: "Any alien who has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter enters, attempts to enter, or is at any time found in, the United States, unless prior to his reembarkation at a place outside the United States or his application for admission from foreign contiguous territory, the Attorney General has expressly consented to such alien's reapplying for admission or with respect to an alien previously denied admission and removed, unless such alien shall establish that he was not required to obtain such advance consent under this chapter or any prior act" – is guilty of a felony.

Affiant Background

3. I am a Deportation Officer with the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"). I have been employed in this capacity since July 24, 1994. Previously, I was employed as a United States Immigration Inspector with the Immigration and Naturalization Service, since December 08, 1988. My duties include the investigation and prosecution of violations of the Immigration and Nationality Act and related criminal immigration statutes. I am currently assigned to the Prosecutions Unit of the San Francisco Field Office. In such capacity, I have reviewed the official DHS records (A79 369 992) and DHS automated

data relating to Daniel RIVERA EULOGIO (“Rivera Eulogio”), which attest to the following:

Case Facts and Evidence

4. Rivera Eulogio is a twenty-six (26) year-old male, native and citizen of Mexico, who last entered the United States illegally by crossing the international border on April 1, 2007 at Nogales, Arizona, in an unknown manner, without first having obtained the consent of the Attorney General of the United States or the U.S. Secretary of Homeland Security.

5. Rivera Eulogio’s official Alien Registration File contains four (4) executed Warrants/Reinstatements of Removal/Deportation indicating Rivera Eulogio was deported from the United States to Mexico on the following dates: October 6, 2001, November 27, 2002, February 23, 2006, and April 7, 2006.

6. On June 18, 2007 ICE encountered Rivera Eulogio at San Francisco County Jail in San Francisco, California. On June 20, 2007, after being advised of his Miranda / Consular Notification Rights, Rivera Eulogio voluntarily provided a sworn statement in which he admitted: his identity, that he was a citizen of Mexico, that he had previously been deported to Mexico, and that he reentered the United States without the required permission.

7. On June 21, 2007, a full set of rolled fingerprints belonging to Rivera Eulogio was submitted to the Automated Fingerprint Identification Center (“AFIS”), for verification of identity. The fingerprint examiner positively identified the fingerprint as belonging to Rivera Eulogio who had previously been removed from the United States as referenced above in paragraph 5.

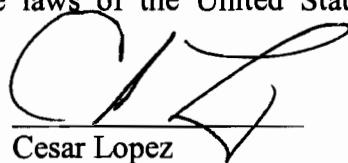
8. There is no indication in the official files of the United States Department of Homeland Security that Rivera Eulogio ever applied for or obtained the permission of the United States Attorney General or the Secretary of Homeland Security to reenter the United States.

Conclusion

9. Based upon the facts described above, I believe that there is probable cause to believe that the defendant, Daniel RIVERA EULOGIO, having previously been deported from the United States to Mexico, has been found in the United States without the required permission, in violation of Title 8, United States Code, Section 1326.

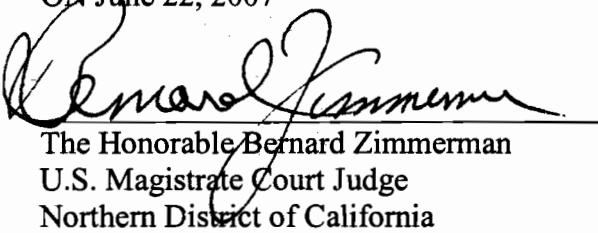
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I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.



Cesar Lopez
U.S. Customs and Border Protection
U.S. Dept. of Homeland Security

SUBSCRIBED AND SWORN BEFORE ME
ON June 22, 2007



The Honorable Bernard Zimmerman
U.S. Magistrate Court Judge
Northern District of California